



**Solomon  
State Bank**

February 23, 2004

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Ms. Jennifer J. Johnson, Secretary  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
20th Street & Constitution Avenue, NW  
Washington, DC 20551

**RE: REMOTELY CREATED CONSUMER ITEMS  
DOCKET NO. R-1176**

Dear Ms. Johnson:

I support an amendment to Reg CC requiring the depository bank to warrant that the person on whose account a remotely created consumer item is drawn authorized the issuance of the item. Doing so would provide protection both for the consumer and for the paying Bank in a manner similar to electronic funds transfers.

Currently, remotely created items create a serious processing bottleneck for banks. Smaller banks, like ours, still review each check for signature or authorization. We actually pull out unsigned paper items and check larger items for authorization prior to paying them. As you can imagine, this is very time consuming. An imaging bank bulk files their check, therefore, they do not review or handle each item separately. Imaging banks are forced to accept liability for unauthorized paper items as a cost of doing business.

In today's banking environment, the person who has the best opportunity to observe potentially unauthorized (i.e. Unsigned paper debits) items is the bank of first deposit. Generally, banks still handle paper deposits by manually verifying the items presented for deposit. Therefore, it seems reasonable to shift that liability to them.

Taking that mindset a step further, an image replacement document creates the same issue for paying banks. No original signature is affixed to the debit therefore the paying bank has no opportunity to verify their customer's authorization of the item. It is my belief that a migration to fully imaged electronic clearing of items can only be accomplished by a massive revamping of check collection warranties.

It appears that Check 21 robs the paying bank of its opportunity to protect itself from unauthorized debits by preventing the paying bank from examining the signature of the drawer. If it is the intent of the Federal Reserve Board to encourage paperless clearing of items, it will be imperative to address the increase in the paying bank's burden of liability.

Respectfully yours,

Kirk W. Berneking,  
Vice President

KWB/mc